

U.S. Department of Justice



*United States Attorney's Office
Western District of Wisconsin*

Telephone 608/264-5158

TTY 608/264-5006

Civil Division Facsimile 608/264-5724

Main Facsimile 608/264-5172

Criminal Division Facsimile 608/264-5054

Administrative Facsimile 608/264-5183

Address:

Suite 303, City Station
660 West Washington Avenue
Madison, Wisconsin 53703

Mailing Address:

United States Attorney's Office
P.O. Box 1585
Madison, Wisconsin 53701-1585

October 1, 2010

The Honorable William M. Conley
United States District Court for the
Western District of Wisconsin
120 North Henry Street - Room 320
Madison, Wisconsin 53701-4302

RE: *Hy Cite Corporation v. Regal Ware, Inc., et al.*
Case Number 10-cv-168-wmc

Dear Judge Conley:

The United States of America has intervened in this action pursuant to Rule 5.1 of the Federal Rules of Civil Procedure for the limited purpose of defending the constitutionality of the False Marking Statute, 35 U.S.C. § 292.

This Court set a briefing schedule requiring the United States to file an opening brief by August 20, authorizing the parties to the action to file responsive briefs no later than September 20, and authorizing the United States to file a brief in reply by October 20. Because Defendants have not opted to file a responsive brief, and because Plaintiff's responsive brief correctly notes that the Federal Circuit's recent decision in *Stauffer v. Brooks Brothers* is dispositive of Defendants' standing challenge, the United States believes that the constitutional challenge to Section 292 can be decided on the current record. Therefore, the United States will not be filing a brief in reply.

Thank you.

Very truly yours,

JOHN W. VAUDREUIL
United States Attorney

By: /s/ Megan McDermott

MEGAN MCDERMOTT
Assistant United States Attorney